IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4565 OF 2006

Gopal Singh Bhavarsingh Rajput ..Applicant

Vs.

The State of Maharashtra ..Respondent

Ms. S. Nair i/by Mr. P.V. Vare for applicant.
Mrs.M.H. Mhatre, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 23, 2007.

P.C.:

1. Heard the learned counsel for the applicant who is one of the accused in Sessions Case No.56 of 2006. For the second time the applicant submitted an application for being released on bail i.e. Bail Application No. 211 of 2006 which came to be rejected by the learned Additional Sessions Judge, Gr. Mumbai and hence this application for being released on bail, pending the trial.

2. The learned Additional Sessions Judge rejected the second bail application mainly on the following grounds:

(a) No change in circumstances after the first application for bail was rejected on merits.

(b) From the reply filed by the prosecution it was pointed out that the accused is a habitual offender and is involved in some other cases as well.

(c) In the identification parade held as per the memorandum dated 8/11/2006 the applicant was identified.

(d) From the charge-sheet dated 26/10/2005 it was noted that one rivolver and cartriges which were used in the commission of offence and more particularly by the applicant came to be recovered at his instance by the investigation machinery under Section 27 of the Indian Evidence Act.

(e) The applicant does not have a permanent residence in Mumbai and if he is released on

bail, the possibility of his absconding could not be ruled out.

3. The learned counsel for the applicant also relied upon the principle of parity on the ground that other accused have been released on bail. This submission is untenable, more so when the reasoning given by the learned Additional Sessions Judge and as noted above, while rejecting the bail application, is not applicable to the other accused. The applicant is alleged to have fired the pistole which also is stated to have been recovered at his instance. He is charged of offences punishable under Sections 395 and 307 of IPC which are punishable with life imprisonment and imprisonment which shall not be less than seven years respectively.

4. Hence, I agree with the reasoning given by the learned Additional Sessessions Judge and, therefore, this application fails. The same is hereby rejected. Trila is expedited.

(B.H. Marlapalle,J.)